

STATE OF NEVADA
COMMISSION ON MINERAL RESOURCES
Regulation Hearing for Reclamation Performance Bond Pool

Thursday, November 21, 2019 – 11:00 a.m.
Legislative Building, Room 3138
401 South Carson Street, Carson City, NV 89701

MINUTES

COMMISSIONERS IN ATTENDANCE:

Richard DeLong
Randy Griffin
Bob Felder
Josh Nordquist
Nigel Bain
Mary Korpi

STAFF IN ATTENDANCE:

Rich Perry - Administrator (NDOM)
Mike Visher (NDOM)
Lowell Price (NDOM)
Sherrie Nuckolls (NDOM)
Courtney Brailo (NDOM)
Greg Ott (AG)

PUBLIC IN ATTENDANCE:

Dale Bugenig

CALL TO ORDER

Richard DeLong: Meeting started at 11:00 am.

I. Comments by the General Public

Richard DeLong: Asked for comments from the Public. There were none.

II. PUBLIC HEARING

The Commission on Mineral Resources will consider written and oral comments and may adopt amendments to regulations to reflect a reduction in the annual premium rate from 3% to 2% and refund 75% of premiums for plan-level participant for the Reclamation Performance Bond Pool as set forth in Chapter 519A of the Nevada Administrative Code.

Mike Visher: Presented a PowerPoint presentation along with the background and history of the Reclamation Performance Bond Pool. He provided a status report and why the Division is proposing to update NAC 519A. He went through the premium rate reduction impact analysis (2%), plan-level refund comparison, and plan-level refund Impact Analysis (75%). Included in the presentation was information on NAC 519A.595 8(b) Consultation with Commissioner of Insurance.

He provided a summary of changes to:

Sec. 2 – definition of “notice-level project” added.

Sec. 3 – clarifies entry deposit amount requirements for notice-level vs. plan-level bonds to reflect current practices.

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Sec. 4 – the “words and terms defined in NAC 519A.512 to .555...” have the meanings ascribed to them in those sections, i.e. they DON’T apply to the rest of 519A (NDEP).

Sec. 5 – edit to definition of “Mining operation” in order to include aggregate operation to reflect current/past practices.

Sec. 6 – clarifies definition of “Plan” to include NDEP plan for reclamation.

Sec. 7 – clarifies bond application requirements for notice-level vs. plan-level bonds to reflect current practices.

Sec. 8 – revises reference for premium amount.

Sec. 9 – decreases minimum premium rate to 2% when amount of deposit(s) plus premium equals or exceeds bond amount.

Sec. 10 – Revises internal reference to deposit amount not returned to participant if terminated from bond pool.

Sec. 11 – clarifies refund process and allows for refund of 75% of premiums paid up to the point the deposit and premiums equal the bond amount; applies to plan-level bonds only.

Sec. 12 – not related to bond pool. Eliminates reference to “notice” for refund of disturbance fee no longer collected on notices.

Mike also mentioned there is one additional change that he’d like to propose we change Section 5 b (3) to delete 3 and add 2 to show that it will be 2% for all the current bond participants as was intended by the Commission, and as was intended by the Division, and was studied by the Division of Insurance.

Richard DeLong: I’d like to make sure that any Commissioner feels they need to disclose anything in relationship to their evaluation discussion or thoughts on the regulations. I will start, the company I work for, EM Strategies, primarily works in the mining industry and our clients are generally covered by 519A as well as other federal regulations and there is the potential that our clients could utilize the bond pool, however, currently none of our clients are and I’m not making any decisions on projects that relate to these changes.

Bob Felder: I work for Renaissance Gold, we’re a participant in the bond pool and I don’t think that will have any effect on my participation here.

Richard DeLong: Is there anyone from the public that has anything to discuss regarding the regulation changes? Seeing none, we’ll open it up for discussion. I will start, in Section 2 we use the term “public lands”, has that actually been defined in the regulations? Where I’m coming from, in general, usually public lands refer to BLM administered lands.

Mike Visher: I took the definitions straight from the BLM definition which does not say BLM managed lands, there is no equivalent on NDEP side so what I was trying to do is capture all the notice-level projects out there.

Richard DeLong: Where I’m coming from is the Forest Service is currently developing regulatory changes under their §228 regulations that are contemplating the implementation of a notice-level type activity on national forest system lands similar to what the BLM has on public lands and I’m wondering with that thought in mind does it make sense to have a little bit of forethought in our regulation change here rather than saying public lands we say federally managed lands.

Mike Visher: What I was looking at here was that would account for that possibility should the Forest Service do something similar and open up for notice-level, just having public lands is saying any agency that it would allow for capturing that. We do not have a current MOU with the Forest Service so we cannot currently do bonds of projects on Forest Service managed lands.

Richard DeLong: Next item I have, just to clarify for the record, on the change you proposed under Section 5 b(3) the first sentence would then read “if the amount of the deposit and the premiums paid by a participant equal or exceed the amount of the bond, is 2 percent of the amount of the bond.” Is that correct?

Mike Visher: Correct.

Josh Nordquist: What was the process in determining the 75% or is there a discussion behind that?

Mike Visher: We did an analysis at 25%, 50% and 75% and presented that to the task force and that was evaluated by the task force to see what it did and what those impacts were and 75% was something that was initially proposed by Commissioner DeLong when we were evaluating this before the task force convened and the 75% seemed to be a good middle ground where monies were still coming back to the account but a good portion was going back to the participant to lessen the hurdle for them to replace the bond. The 25% wasn’t much of a change from the current amount but 75%

made a big difference in them being able to replace the bond or it would obviously increase the incentive for them to fulfill their obligations as well rather than just a 25%.

Bob Felder: Has there been any discussion about creating an MOU at the Forest Service?

Mike Visher: We have reached out to Scott Richey at the Forest Service who handles the bonding for the Forest Service and have not heard back. I was not involved in developing the original MOU with the BLM so I can't speak as to whether or not the discussions were held with the Forest Service at the time. I think if they were open to it, we would jump at the opportunity because there is interest in doing that. Right now, bonding projects on Forest Service lands particularly for individuals or small companies is very difficult.

Richard DeLong: Any other questions from the Commission? I think we're ready for a motion.

Motion to adopt regulation LCB R044-19 with the following change in Section 5(3), to change the percentage from 3 to 2, by Bob Felder.

Seconded: Mary Korpi

The motion carries 6 to 0

III. Comments by the General Public

Richard DeLong asked for public comments. There were none.

Meeting adjourned at 11:40 am.